

DOCKET NO: 293196US6XPCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
SHOZO YOKOYAMA, ET AL. : EXAMINER: BRAHAN, THOMAS J.
SERIAL NO: 10/588,843 :
FILED: AUGUST 9, 2006 : GROUP ART UNIT: 3654
FOR: CRANE AND METHOD OF :
ASSEMBLING CRANE

REPLY BRIEF UNDER 37 C.F.R. § 41.41

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313
SIR:

In reply to the Examiner's Answer dated November 13, 2009, Appellants note the following:

The claims all recite a family of cranes having a plurality of classes of cranes, each class having a different lifting capability as compared to all of the other classes, each class further including a plurality of models, wherein all of the models included in **each respective** class share a common rotating frame, the common rotating frame of each respective class having specifications based on the model of that class having the *largest* lifting capacity, and the rotating frame for each respective class is different from the rotating frames of all of the other classes. One can therefore reduce the total required number of rotating frames to correspond to the number of classes having different lifting capabilities by providing that all of the models in that class have a rotating frame having specifications *based on the model of that class having the largest lifting capacity*, but can also minimize the problem of a small capacity model having too large a rotating frame.

The claims recite the cranes in terms of “classes” and “models,” wherein the “classes” differ from one another by lifting capability and the “models” are provided within the various classes. The record of this application contains evidence that this claim terminology is consistent with the conventional usage of these terms by those skilled in the art. For example, there is no dispute that the prior art U.S. patent to Yokoyama refers to an “80-ton class” versus a “65-ton class,” i.e., Yokoyama provides evidence that the term “class” is used by those skilled in the art to distinguish cranes of different lifting capacity.

On the other hand, the Examiner’s Answer makes clear that the outstanding rejections depend on the usage of the terms “classes” and “models” instead being such that it is the “models” within some unspecified class that differ from one another by lifting capability. See the sentence bridging pp. 2-3 of the Examiner’s Answer.

There is no dispute that the Examiner is entitled to give the claim terms their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). This means that they are given their plain meaning as it would be interpreted by one of ordinary skill in the art. MPEP § 2111.01.

It is respectfully submitted that the Examiner has used the term “classes” in a manner that is inconsistent with its usage in the art, and has presented no evidence to rebut the evidence in Yokoyama that it is the term “classes” that is used by those skilled in the art to refer to cranes of different lifting capacity. Thus, the interpretation in the Examiner’s Answer that cranes which differ from one another by lifting capability are different “models,” rather than different “classes,” is outside of even the broadest reasonable interpretation of these terms.

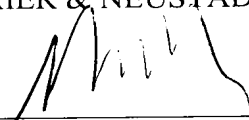
Moreover, if the term “classes” is interpreted as it would be understood by one skilled in the art, i.e., to distinguish cranes which differ from one another by lifting capability,

Yokoyama and Brown do not provide a teaching of a plurality of classes of cranes, each class having a different lifting capability as compared to all of the other classes, each class further including a plurality of models, the common rotating frame of each respective class having specifications based on the model of that class having the *largest* lifting capacity. Instead, Yokoyama touts the advantages of using a common rotating frame based on the *smaller* 65 ton class for higher capacity (80 ton) lifting, and so teaches away from the “having specifications based on the model of that class having the largest lifting capacity” feature of the invention. Brown describes cranes of different lifting capacities, but without disclosing common rotating frames or the common rotating frame of each respective class having specifications based on the model of that class having the largest lifting capacity, and so Brown cannot overcome this shortcoming of Yokoyama.

Appellants therefore request that the final rejection be REVERSED.

Respectfully submitted,

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